



State Statutes Series 2004

Clergy as Mandatory Reporters of Child Abuse and Neglect

Clergy's Responsibility to Report

A mandatory reporter is a person who is required to report suspected cases of child abuse and neglect. Every State, the District of Columbia, and the U.S. Territories have statutes that identify mandatory reporters of child maltreatment and specify the circumstances under which they are to report.

Approximately¹ 25 States (Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Pennsylvania, South Carolina, Vermont, West Virginia, and Wisconsin) currently include members of the clergy among those professionals specifically mandated by those States' reporting laws to report known or suspected instances of child abuse or neglect. In approximately 18 States (Delaware, Florida, Idaho, Indiana, Kentucky, Maryland, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Utah, and Wyoming²) and Puerto Rico, any person who suspects child abuse or neglect is required to report. That broad language appears on its face to include clergy as well as anyone else, but it is possible that the term has been interpreted otherwise.

Privileged Communications

As a doctrine of some faiths, clergy must maintain the confidentiality of pastoral communications. Mandatory reporting statutes in some States specify when a communication is privileged. "Privileged communications" is the statutory recognition of the right to maintain the confidentiality of such communication. Privileged communications may be exempt from the reporting laws. The privilege of maintaining this confidentiality under State law must be provided by statute³, and most States do provide the privilege, typically in rules of evidence or civil procedure.⁴ If the issue of privilege is not addressed in the reporting laws, it does not mean that privilege is not granted; it may be granted in other parts of State statutes.

This privilege, however, is not absolute. While clergy-penitent privilege is frequently recognized within the reporting laws, it is typically interpreted narrowly in the child abuse

¹ The word *approximately* is used throughout the State Statutes series to stress the fact that statutes are constantly being revised and updated.

² Three of these States, Mississippi, New Hampshire, and New Mexico, also enumerate clergy as mandated reporters.

³ *American Jurisprudence*, 2nd Edition, vol. 81, p. 447. Rochester, NY: Lawyers Cooperative Publishing, 1992.

⁴ The issue of clergy-penitent privilege may also be addressed in case law, which this publication does not cover. For a fuller discussion of the issues, including significant case law, see Karen L. Ross, "Revealing Confidential Secrets: Will It Save Our Children?" *28 Seton Hall Law Review* 963 (1998); or J. Michael Keel, "Law and Religion Collide Again: The Priest-Penitent Privilege in Child Abuse Reporting Cases." *28 Cumberland Law Review* 681 (1997-1998).



or neglect context. The circumstances under which it is allowed vary from State to State, and in some States it is denied altogether. For example, among the States that enumerate clergy as mandated reporters, New Hampshire and West Virginia deny the clergy-penitent privilege in cases of child abuse or neglect. Three of the States that enumerate “any person” as a mandated reporter (North Carolina, Rhode Island, and Texas) also deny clergy-penitent privilege in child abuse cases.

In States where neither clergy nor “any person” are enumerated as mandated reporters, it is less clear whether clergy are included as mandated reporters within other broad categories of professionals who work with children. For example, in Washington, clergy are not enumerated as mandated reporters, but the clergy-penitent privilege is affirmed within the reporting laws.

Many States and Territories include Christian Science practitioners or religious healers among professionals who are mandated to report suspected child maltreatment. In most instances, they appear to be regarded as a type of health care provider. Only eight States (Arizona, Arkansas, Louisiana, Massachusetts, Missouri, Nevada, South Carolina, and Vermont) explicitly include Christian Science practitioners among classes of clergy required to report. The clergy-penitent privilege is also extended to those practitioners by statute.

The chart below summarizes how States have or have not addressed the issue of clergy as mandated reporters (either specifically or as part of a broad category) and/or clergy-penitent privilege (either limiting or denying the privilege) within their reporting laws.

	Privilege granted but limited to “pastoral communications”	Privilege denied in cases of suspected child abuse or neglect	Privilege not addressed in the reporting laws
Clergy enumerated as mandated reporters	Alabama, Arizona, Arkansas, California, Colorado, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Oregon, Pennsylvania, South Carolina, Vermont, Wisconsin	New Hampshire, West Virginia	Connecticut, Mississippi
Clergy not enumerated as mandated reporters but may be included with “any person” designation	Delaware, Florida, Idaho, Kentucky, Maryland, Utah, Wyoming	North Carolina, Rhode Island, Texas	Indiana, Nebraska, New Jersey, Oklahoma, Tennessee, Puerto Rico
Neither clergy nor “any person” enumerated as mandated reporters	Washington ⁵	Not applicable	Alaska, American Samoa, District of Columbia, Georgia, Guam, Hawaii, Iowa, Kansas, New York, Northern Mariana Islands, Ohio, South Dakota, Virgin Islands, Virginia

This publication is a product of the State Statutes Series prepared by the National Clearinghouse on Child Abuse and Neglect Information. Publications with Full-Text Excerpts of State Laws contain excerpts of text with citations from specific sections of each State’s code that focus on a single issue. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State’s code as well as in agency regulations, case law, and informal practices and procedures.

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⁵ Clergy are not mandated reporters in Washington, but if they elect to report, their report and any testimony are provided statutory immunity from liability.